

**From:** Paige Delgado  
**To:** Guy Tidmore  
**Subject:** Fw: Statutory Exception for non-DOD material - EXPLO Systems  
**Date:** 01/24/2013 11:19 AM

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----- Original Message -----

**From:** Paige Delgado  
**Sent:** 01/23/2013 07:13 PM CST  
**To:** Susan Webster; Ragan Broyles; Chris Petersen  
**Cc:** Greg Fife  
**Subject:** Statutory Exception for non-DOD material - EXPLO Systems

The official position of the US Army (DOD) is that they will not openly admit any liability/responsibility for the M6 propellant at EXPLO Systems. However, US Army Representatives and Attorneys have cited *10 U.S.C. § 2629 - Storage treatment and disposal of non-DOD toxic and hazardous materials* as the statute restricting DOD from storing the propellant at any DOD installation or depot. Exceptions exist within the statute for:

(b)(3) "The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal, State, or local law enforcement in storing or disposing of explosives when no alternative solution is available..."

or (b)(5) The disposal of excess explosives produced under a DOD contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements."

EXPLO Systems has signed a letter requesting the exception(s) above and provided it to LSP and LA National Guard. The State of Louisiana is drafting a similar letter to submit to the Secretary of Defense and submitting it as soon as it is prepared, in conjunction with the letter from EXPLO. EPA, LSP, and LA National Guard Attorneys are coordinating to recommend what language and/or specifics should be included in the letter from Louisiana to DOD.

link to statute:

<http://www.law.cornell.edu/uscode/text/10/2692>

Please let me know if you have additional questions.

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